

Attorney Docket No.: 6116.200-US  
Application No.: 09/757,788  
Filed: January 10, 2001  
Inventors: Keith Anderson et al.  
Via Facsimile No.: 571-273-8300

### **REMARKS/ARGUMENTS**

Claims 1-3, 5-8, 15-16, 18-19, 21-23 and 25-27 are pending following entry of the above amendments to the claims.

### **OBVIOUSNESS-TYPE DOUBLE PATENTING REJECTION OF THE CLAIMS**

Claim 1 was rejected under the doctrine of obviousness-type double patenting over claim 1 of US patent 6,268,343 and over claims 48 and 49 of copending application 09/772,607. In particular, the Examiner states that claim 1 of the 343 patent "is a GLP-1 derivative having a lipophilic substituent at Lys-26, optionally via a spacer" (page 2 of Office Action) and claims 48 and 49 of the 607 application as "a derivative of GLP-1 or an analog thereof wherein a lipophilic substituent having 8 to 40 carbon atoms (12-35 in claim 49) and optionally having an amino group is attached to the C-terminal amino acid of GLP-1" (page 3 of Office Action).

In reply, Applicants submit that these rejections are rendered moot by the amendments to the claims presented herein which incorporate the limitations of non-rejected (and now cancelled) claims 14 and 17 into claim 1 and which add a new claim 27 that incorporates the limitations of non-rejected (and now cancelled) claims 20 and 24.

### **REJECTION OF THE CLAIMS UNDER 35 U.S.C. 102**

Claim 1 is rejected as anticipated under 102 (e) by claim 1 of US patent 6,268,343 because Knudsen et al teaches a GLP-1 derivative having a lipophilic substituent at Lys-26, optionally via a spacer.

In reply, Applicants submit that these rejections are rendered moot by the amendments to the claims presented herein which incorporate the limitations of non-rejected (and now cancelled) claims 14 and 17 into claim 1 and which add a new claim 27 that incorporates the limitations of non-rejected (and now cancelled) claims 20 and 24.

### **REJECTION OF THE CLAIMS UNDER 35 U.S.C. 103(a)**

Claims 1-3, 5-8 and 14-26 are rejected as obvious over US patent 6,268,343.

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In reply, Applicants state:

**"the present application and US patent 6,268,343 were, at the time the invention of the present application was made, owned by Novo Nordisk".**


Evidence of common ownership of the present application and of US Patent 6,268,343 is provided by the assignments recorded at reel/frame numbers 011649/0994 and 009956/0256 respectively. Accordingly, by virtue of this evidence and the above statement, Applicants submit the '343 patent is disqualified as prior art for purposes of section 103 and therefore respectfully request withdrawal of this rejection.

In view of the above amendments and remarks, it is believed that the above application is in condition for allowance.

Early and favorable consideration by the Examiner is respectfully solicited.

Respectfully submitted,

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